

Group III, claims 2, 47-52, 55, 56 and 57, drawn to a method of transferring data including an identification of the device type;

Group IV, claims 32, 35, 53, 54, 58-66, 68, and 70-72, drawn to a data exchange method including checking driver type; and

Group V, claims 73-83, drawn to a data exchange method with decrypting hardware that contains an inaccessible part.

In response to this requirement, Applicants hereby elect Group I, claims 1, 3-5, 7-11, 15, 16, 20-25, 39-43 and 86-88 drawn to a data exchange method with encryption and key exchange. This election is with traverse.

It is respectfully submitted that it should be no undue burden on the Examiner to consider all claims in the single application. Reconsideration and withdrawal of this Restriction Requirement are therefore respectfully requested.

Applicants also respectfully submit that the Examiner has failed to meet the required burden of showing that the groups of claims are independent and distinct, as required by law. 35 USC §121 specifically states that the Commissioner may require the application to be restricted if it contains two or more "independent and distinct" inventions claimed in one application. 37 CFR §1.141 and §1.142 further repeat the language that the two or more inventions must be "independent and distinct".

MPEP §802.01 provides specific definitions of the meaning of the terms "independent" and "distinct". MPEP §802.01 states that the terms "independent" and "distinct" do not mean the same thing, but in fact have very different meanings. The term "independent", as set forth in MPEP §802.01, means that "there is no disclosed relationship between the two or more subjects disclosed, that is, they are unconnected in design, operation, or effect". The term "distinct" means that "two or more subjects as disclosed are related, for example, as combination and part (sub-combination) thereof, ... and are patentable over each other".

The Examiner has set forth various reasons why the inventions are "distinct" from one another, by providing separate classifications for the groups, and by stating reasons why the groups are related. However, the Examiner has not met the burden of proving that the groupings are "independent" as required by the United States Code, the Code of Federal Regulations, and the Manual of Patent Examining Procedure. Accordingly, Applicants respectfully submit that the requirement for restriction is improper, and respectfully request that the requirement for restriction be withdrawn.

Applicants respectfully submit that MPEP §808.01 states that inventions are independent "where they are not connected in design, operation, or effect under the disclosure of the particular

application under consideration" and that "[t]his situation, except for species, is but *rarely present*, since persons will seldom file an application containing disclosures of independent things. (emphasis added). MPEP §806.04 cites the intended meaning of independent inventions by citing specific examples of independence, stating "[a]n article of apparel such as a shoe, and a locomotive bearing would be an example. A process of painting a house and a process of boring a well would be a second example."

Applicants respectfully submit that the groups set forth by the Examiner cannot be considered "independent", since the specification clearly discloses the relationship between the subject matter of the claims of these groupings, and thus, the groupings are not wholly unrelated or "independent". Therefore, Applicants respectfully submit that the instant application is not properly restrictable, since the Examiner has not shown that the inventions are "independent" as required by the U.S. Statute.

Accordingly, in view of the above remarks, reconsideration of the requirement for restriction, and an action on all of the claims in the application, are respectfully requested.

In the event that the Examiner persists in this requirement, Applicants reserve the right to file a Divisional application at a later time, if so desired.

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In the event there are any outstanding matters remaining in this application, the Examiner is invited to contact the undersigned (703) 205-8000 in the Washington, D.C. area.

Favorable reconsideration and an early Notice of Allowance are earnestly solicited.

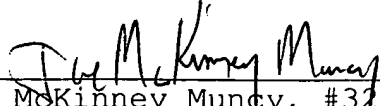
Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), the Applicants respectfully petition for a three (3) month extension of time for filing a response in connection with the present application and the required fee of \$510.00 is attached herewith.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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